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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,125	10/10/2003	Xiao Zhang	ROC920030245US1	2745
46797 7590 03/26/2009 IBM CORPORATION, INTELLECTUAL PROPERTY LAW DEPT 917, BLDG. 006-1 3605 HIGHWAY 52 NORTH ROCHESTER, MN 55901-7829				
EXAMINER				
DAGNEW, SABA				
ART UNIT		PAPER NUMBER		
3688				
MAIL DATE		DELIVERY MODE		
03/26/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: XIAO ZHANG

Application No. 10/684,125
Technology Center 3600

Mailed: March 26, 2009

Before Deborah L. PERRY, *Supervisory Paralegal Specialist*
PERRY, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on March 5, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

REPLY BRIEF

The review of the file finds that the Reply Brief/Request to Reopen Prosecution in Response to Examiner's Answer, filed February 5, 2009, includes an amendment and/or new evidence.

In accordance with 37 CFR 41.41(a)(2):

“A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence...”

Because the reply brief filed February 5, 2009 was accompanied by an amendment, affidavit or other evidence, it will be treated as a request that prosecution be reopened before the examiner. See MPEP §1208 for details.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed in this application on February 5, 2009. There is no evidence on the record indicating that the Examiner has considered the Reply Brief in accordance with 37 CFR § 41.43(a)(1) and MPEP § 1208, part II.

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to treat the Reply Brief as a request to reopen prosecution;
- 2) to consider the Reply Brief filed February 5, 2009, as indicated above; and

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP/KLH

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